

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

DOCKET FILE COPY ORIGINAL

RECEIVED

JUL 30 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Numbering Resource Optimization

Connecticut Department of Public Utility Control
Petition for Rulemaking to Amend the Commission's
Rule Prohibiting Technology-Specific or Service-
Specific Area Code Overlays

Massachusetts Department of Telecommunications
and Energy Petition for Waiver to Implement a
Technology-Specific Overlay in the
508, 617, 781, and 987 Area Codes

California Public Utilities Commission and the
People of the State of California Petition for
Waiver to Implement a Technology-Specific or
Service-Specific Area Code

CC Docket No. 99-200

RM No. 9258

NSD File No. L-99-17

NSD File No. L-99-36

COMMENTS OF PAGING NETWORK, INC.

Paging Network, Inc. ("PageNet"), on behalf of its operating subsidiaries, hereby submits its comments in the above-captioned proceeding. PageNet commends the Federal Communications Commission ("FCC") staff for the thoroughness of its *Notice of Proposed Rulemaking* in the above-captioned proceeding. PageNet here focuses, however, on: (1) the need for the FCC and the States to take all actions necessary to assure all carriers, including CMRS carriers, have immediate access to telephone numbers on a reasonable, non-discriminatory basis; (2) the need for immediate rate center consolidation; and (3) the need for the FCC to reaffirm that mandatory technology specific overlays are unlawful. PageNet also agrees with the positions taken by PCIA in its comments in this proceeding.

In sum, PageNet fully supports the FCC's efforts to address number exhaustion and to improve the efficient use of numbers. Number exhaustion is a serious and immediate problem

throughout the United States. The problem is exacerbated by the lack of a reasonable, national plan which systematically roots out and remedies those causes of inefficient number utilization – key among them, small rate centers – which dictate that large numbers of NXX codes will be required quickly and will have low overall utilization. PageNet urges the Commission to adopt a national framework for addressing these critical issues and to not let itself become bogged down in band-aid approaches that will do nothing but lead to additional rationing, from which only the ILECs benefit.

I. THE COMMISSION MUST IMPLEMENT A NATIONAL PLAN FOR NUMBER ASSIGNMENT AND UTILIZATION

PageNet respectfully suggests that the FCC needs to be clear with respect to numbering issues and create bright lines in all of its actions and statements, because carriers and their customers are facing number resources crises each time State commissions venture into jurisdictionally gray areas. The FCC should make clear that the States have the authority, and the responsibility, to implement area code relief in a timely manner to prevent number exhaust once declared by the Code Administrator. In addition, the States should be given every possible incentive to reduce the number of rate centers to the maximum extent feasible, and thus to which reduce materially the demand for NXX codes. It is the FCC, however, that must ultimately assure the timely availability of telephone numbers, and that numbers are utilized efficiently in each of the States. After all, area codes are fungible, and an area code that is wasted in one state will not be available for use in another. From PageNet's perspective, this means three things: 1) the FCC must set forth a nationwide framework for number allocation and assignment; 2) it must retain the implementation and enforcement of this framework; and 3) it must assure that all carriers have an equivalent opportunity to get telephone numbers, regardless of whether they participate in any pooling which may be implemented.

Assuming for purposes of this example that pooling is adopted, the latter point can be accomplished by assuring that the administrator of NXX codes may allocate NXX codes both to wireless carriers for their use, and to the pooling administrator which will in turn, assign partial codes to those carriers participating in pooling their use. This method of allocation will assure that all carriers have ready access to telephone numbers.

II. THE FCC SHOULD CREATE INCENTIVES FOR STATES TO IMPLEMENT RATE CENTER CONSOLIDATION.

As an initial matter, PageNet commends the FCC for recognizing explicitly that sufficient numbering resources are critical for competition in the telecommunications industry, and implicitly that telephone numbers must be made available to all industry participants in a timely manner. What is needed now is for the FCC to move forward to create incentives for States to quickly implement rate center consolidation to the maximum extent possible. By doing so, States will be in the position to avoid a crises which would be caused by number exhaustion and would ensure that the goals of having numbers available to competitors and, more importantly, to citizens who are seeking additional telecommunications services are met in a timely fashion.

A. Under Rate Center Consolidation, Carriers Will Be Able To Achieve Efficient Number Utilization For Additional Area Codes.

Some conservation measures proposed, however well-intentioned, would not significantly delay the need for continuing rapid area code relief. Under pooling, for example, States will nonetheless have to grant area code relief as soon as the first rate center faces number exhaustion and all available NXXs have been allocated, no matter how many partial blocks of numbers remain unused in other rate centers within the same area code.

In stark contrast, further rate center consolidation could dramatically delay the need for area code relief. Rate center consolidation would be much more effective than other proposed conservation measures because it directly addresses the problem of fragmentation. It is widely

recognized that the fragmentation caused by multiple rate centers is “one of the largest causes of the demand for additional NXX codes.”¹ Not only is rate center consolidation an extremely effective means for conserving numbers, but it can be implemented without undue burden to consumers, CLECs or ILECs. As the ETI Report explains:

Expansion of calling areas and elimination of calling areas and elimination of distance-based charges may have small negative revenue impacts on the incumbent LEC, but these pale in magnitude to the huge tangible and intangible costs associated with the introduction of new area codes. Moreover any minor revenue effects of rate center consolidation can be easily remedied through other offsetting tariff revisions, such as through small upward adjustments to the measured usage charges or to flat monthly usage rates.²

Moreover, rate centers in some substantial measure have outlived their purposes. Multiple rate centers were used to recover distance-based cost through toll-based pricing.³ In recent years, however, cost is decreasingly distance dependent: “Fiber optics and digital carrier systems have all but eliminated *distance* as a significant cost driver which, when coupled with the economies of scale that are present in large digital electronic central office switches, make it far more efficient to serve multiple small communities out of one relatively large switching entity.”⁴ By further consolidating rate centers, States could remove the obstacles that prevent carriers from using numbers as efficiently as possible.

The proof comes from those States that have at least begun rate center consolidation. For example, in January 1998, the Texas PUC issued an order consolidating rate centers in the Dallas, Houston, and Austin metropolitan areas. The PUC, considering 59 rate centers within

¹ Economics and Technology, Inc., *Where Have All The Numbers Gone?*, at 26 (“ETI Report”). For example, if a city were to reduce its number of rate centers from 81 to 30, it could conserve as many as 510,000 numbers for each CLEC.

² *Id.* at 27.

³ *Id.* at 12 (“The *sole* rational for retaining extreme granularity in rating areas has been so that *prices* for individual calls could be tied in some manner to *distance*.”).

⁴ *Id.* at 11.

Southwestern Bell operations, was able to reduce this number to only 23 rate centers *without any impact on local calling scope or rates*. The PUC, considering an additional 18 rate centers within GTE and Sprint operating territories in these metro areas, was able to reduce this number by another 8.⁵ Texas has also considered further consolidation. The logic behind the Texas PUC's action was unassailable: "NXX Codes are assigned on the basis of rate centers. Consequently, if the number of rate centers are reduced through consolidation, the need for NXX codes should be reduced for each code holder."⁶

The Texas example makes clear that extensive benefits in the reduction of the strain on numbering resources can be made through rate center consolidation. Such consolidation can have little or no impact on local calling rates in many instances, because the slight accompanying costs may be offset by expanded local calling rates and the availability of additional NXX codes.

III. TECHNOLOGY-SPECIFIC OVERLAYS SHOULD NOT BE PERMITTED

There is no reason for the FCC to consider technology-specific overlays ("translated" by some States and ILECs into "wireless-only codes"). It is a bad idea. Wireless-specific overlays erect unnecessary obstacles to competition between wireline and wireless services without any tangible off-setting benefits.

A. Wireline And Wireless Services Compete For Customers

Wireless carriers, and the FCC, have always been cognizant of the potential for wireless carriers to compete with landline; the FCC's policies are designed specifically to foster such competition. Those advocating wireless overlays would have the FCC discard its well-established goal of eventual full competition between wireline and wireless services, just as such

⁵ See Number Conservation Measures in Texas, Order No. 1, Docket No. 473-96-2285 (Jan. 12, 1998) ("*Texas Order No. 1*"); Texas Number Conservation Task Force Report, Options Nos. 1 & 3 (Dec. 4, 1997) ("*Texas Task Force Report*").

⁶ See Number Conservation Measures in Texas, Order No. 1, Docket No. 473-96-2285 (Jan 12, 1998) ("*Texas Order No. 1*"), at ¶ 5.

competition is gaining steam. Certainly, the current level of wireline and wireless competition dictates that the FCC should not take actions which would effect a customer's perception of the services, or in any way effect their choice of providers.

There is ample support, going back years, for this conclusion. For example, BellSouth, in support of its efforts to obtain in-region interLATA operating authority in 1997, conducted market surveys of PCS services in Louisiana. These surveys, BellSouth reports, indicate that about 17 percent of PrimeCo's and Sprint Spectrum's 8000-plus customers chose to subscribe to a PCS service instead of a wireline service.⁷ Of the total number of PCS customers in Louisiana, BellSouth claims,

- 29 percent now use PCS as their primary home or business phone,
- 56 percent sometimes use PCS to receive and place calls at home, and
- 80 percent use their PCS phone rather than using the wireline service of a friend or business associate when they are away from home or work.⁸

No matter how one interprets the BellSouth surveys, it is clear that concrete manifestations of competition between wireless and wireline services are to be found. Consistent with BellSouth's observations, GTE Wireless has "detected [a] shift among students, who are signing up for cellular or PCS service rather than buying [a] separate phone line."⁹ Based on developing competition between wireless and wireline services, "Sprint Spectrum's wireless objectives

⁷ See Brief in Support of Application by BellSouth for Provision of In-Region, InterLATA Services in Louisiana, CC Docket No. 97-231, pp. 16-17 (Nov. 6, 1997) ("BellSouth Brief").

⁸ *Id.*

⁹ *Industry Sees Students and Retirees Dropping Wired Phones for Wireless*, Communications Daily, September 15, 1997.

include not only penetration of the existing cellular market but also capturing significant wireline local telephony market share”, according to market analysts Schroder Wertheim & Co., Inc.¹⁰

There is also evidence that substitution is occurring between cellular services and interexchange operated-assisted and credit card payphone services.¹¹ Moreover, many wireless carriers offer prepaid cellular calling cards and short messaging paging services, both of which are being used as a substitute for what would otherwise be landline calls.

The FCC has also recognized that “there are a number of trends apparent in the increased use of wireless telephony that may point to the eventual use of wireless telephony as not just a supplementary communications tool to traditional wireline service but as a substitute for such service.”¹² As evidenced by the Calling Party Pays proceeding, the Commission is investigating ways to enable wireless carriers to “more readily compete with wireline services . . .”¹³

Chairman Kennard, as recently as last year, noted that Congress has “recognized PCS and other wireless technologies on the horizon as not just complements to the telephone network but potential competitors, and ultimately, as substitutes.”¹⁴ He explained that in order to foster competition between wireline and wireless services, it is imperative “that we have a technology neutral allocation of network resources. This means avoiding numbering exhaustion [and]

¹⁰ Schroder Wertheim & Co., Inc., Company Report – Cox Communications, Inc., dated July 9, 1996.

¹¹ See Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Report and Order, 11 FCC Rcd 20541, 20658 (1996) (referring to Application of McCaw and AT&T, Memorandum Opinion and Order, 9 FCC Rcd 5386-5847 (1994)).

¹² *Second Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services*, Federal Communications Commission, p. 53 (rel. March 25, 1997) (“*Second Annual CMS Competition Report*”).

¹³ See Calling Party Pays Service Option in the Commercial Mobile Radio Services, Notice of Inquiry, WT Docket No. 97-207 (rel. Oct. 23, 1997).

¹⁴ *Remarks by William E. Kennard, Chairman, Federal Communications Commission, to CTIA WIRELESS 98*, Atlanta Georgia (Feb. 23, 1998).

overlay plans that aren't competitively neutral. . . ."¹⁵ For this reason alone, the Commission should reject the technology-specific overlays petition.

B. Wireless-Specific Overlays Would Not Delay Number Exhaust.

The record makes clear that wireless carriers are able to use numbers more efficiently than wireline carriers. Because wireless customers are not as tied to specific rate centers, providers of wireless services have been able to use blocks of 10,000 numbers more efficiently over a broader geographic area than wireline providers, which must use a minimum of 10,000 numbers in each rate center. Typical NPAs (prior to consolidation) currently have between 50 and 150 rate centers, and some may have even more. Because wireless carriers, unlike wireline carriers, attempt to utilize the same NXX code throughout a multiple-rate-center geographic area, wireless demand for NXX codes is directly related to customer demand over an extended area within a market, not artificial geographic "rate center" requirements. Moreover, wireless providers reuse telephone numbers as quickly as possible within NXX codes assigned to them, offering the numbers of former customers to new customers as soon as practical, which also limits the need for new NXX codes. It is not surprising, therefore, that "many wireless providers achieve 'fill' rates as high as 80 percent."

Moreover, some state PUCs have recently perceived wireless only overlays along with mandatory take-back of numbers from wireless carriers as an alternative to implementing area code relief. The benefit to be derived from requiring wireless carriers to return their assigned NXXs and use a service-specific overlay is non-existent to say nothing of the discrimination it would impose on customers of the wireless carriers.

The FCC has also recognized that wireless-specific overlays are not the answer to number conservation, explaining that "[w]hat extends the life span of a relief plan, however, is

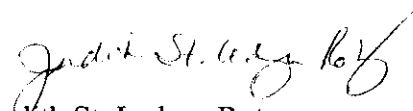
¹⁵ *Id.*

not so much the wireless overlay as the introduction of a new NPA with its 792 additional NXXs.”¹⁶ Similarly, the NANPA Director has explained that service-specific overlays “will almost certainly lead to waste of valuable numbering resources, and that they could be viewed as discriminatory.”¹⁷ Accordingly, the Commission should not allow mandatory technology-specific overlays.

IV. CONCLUSION

For the foregoing reasons, the FCC must adopt the relief requested above.

Respectfully submitted,


Judith St. Ledger-Roty
Todd D. Daubert
KELLEY DRYE & WARREN, LLP
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036
(202) 955-9600

Its Attorneys

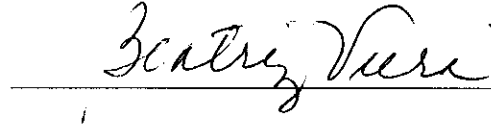
July 30, 1999

¹⁶ Second Report and Order, 11 FCC Rcd at 19528, ¶306.

¹⁷ Letter from Ronald R. Conners, Director, North American Numbering Plan Administration to Geraldine A. Matise, Chief, Network Services Division, Common Carrier Bureau, FCC, (March 21, 1996).

CERTIFICATE OF SERVICE

I, Beatriz Viera, hereby certify that copies of the foregoing Comments of Paging Network, Inc. re Numbering Service Optimization, CC Docket No. 99-200, were served on July 30, 1999, by messenger to the following persons.



William E. Kennard
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Susan Ness
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Harold Furchtgott-Roth
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Michael Powell
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Gloria Tristani
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Lawrence E. Strickling
Chief, Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Anna Gomez
Chief, Network Services Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Yog R. Varma
Deputy Bureau Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Donald K. Stockdale
Associate Bureau Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

James D. Schlichting
Deputy Bureau Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Kurt Schroeder
Deputy Chief, Network Services Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Diane Harmon
Assistant Chief, Network Services Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Tejal Mehta
Attorney Advisor, Network Services Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Joel Taubenblatt
Attorney Advisor
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Janice Myles
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Alvin McCloud*
Network Services Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 6-A423
Washington, D.C. 20554

Blaise A. Scinto
Deputy Chief, Network Services Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Jared M. Carlson
Attorney Advisor, Network Services Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

David Furth
Attorney Advisor
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Magalie R. Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

International Transcription Services, Inc.
1231 20th Street, N.W.
Washington, D.C. 20036

Judy Boley
Federal Communications Commission
Room 1-C804
445 12th Street, S.W.
Washington, D.C. 20554

Timothy Fain
OMB Desk Officer
10236 NEOB
725 17th Street, N.W.
Washington, D.C. 20503

*Read-Only Diskette